

**APR 25 2003**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON**  
**U.S. COURT OF APPEALS**

OBED VALENZUELA MURRIETA,

Petitioner - Appellant,

v.

C.A. TERHUNE, Director,

Respondent - Appellee.

No. 01-56874

D.C. No. CV-00-01432-JTM

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Jeffrey T. Miller, District Judge, Presiding

Argued and Submitted April 8, 2003  
Pasadena, California

Before: SCHROEDER, Chief Judge, THOMPSON, and GRABER, Circuit Judges.

Petitioner Obed Valenzuela Murrieta appeals the district court's dismissal of his 28 U.S.C. § 2254 petition as barred by the statute of limitations in the

---

\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

Antiterrorism and Effective Death Penalty Act of 1996, 28 U.S.C. § 2244(d)(1).

We affirm.

Murrieta contends that he is entitled to statutory and equitable tolling because he was unable to gain access to the law library at either of the two prisons where he was housed during the one-year limitation period. Murrieta never explained, however, how lack of library access prevented him from obtaining and filling out the federal habeas form he eventually filed. See Lewis v. Casey, 518 U.S. 343, 351 (1996) (stating that the prisoner must show how alleged library shortcomings hindered his efforts to pursue his claim).

Murrieta also contends that we should remand the case for an evidentiary hearing to determine whether he made more than one request for law library access at Centinela State Prison. He relies on our opinion in Whalem/Hunt v. Early, 233 F.3d 1146, 1148 (9th Cir. 2000) (en banc) (per curiam), in which we remanded for further factual development to determine whether either statutory or equitable tolling was justified. Here, the magistrate judge did what she was supposed to do after Whalem. She deferred her report so that Murrieta could submit additional evidence in support of his petition. Murrieta did not submit sufficient additional evidence to show that tolling was justified.

AFFIRMED.